

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference W100681WO/Hdt/wek		FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/005134	International filing date (day/month/year) 13.05.2004	Priority date (day/month/year) 13.05.2003	
International Patent Classification (IPC) or national classification and IPC			
Applicant WECKERLE GMBH			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>9</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>10</u> sheets, as follows:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ the international application as originally filed/furnished
- ☒ the description:

pages 1, 3, 5, 6 as originally filed/furnished

pages* 2, 4 received by this Authority on 18.03.2005 with the letter of 17.03.2005

pages* _____ received by this Authority on _____

- ☒ the claims:
- nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1-31 received by this Authority on 18.03.2005 with the letter of 17.03.2005

nos.* _____ received by this Authority on _____

- ☒ the drawings:
- sheets 1/2-2 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. IV Lack of unity of invention

1. ☐ In response to the invitation to restrict or pay additional fees the applicant has:
 - ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ neither restricted the claims nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
 - ☐ complied with.
 - ☒ not complied with for the following reasons:

See Supplemental Box

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☒ all parts.
- ☐ the parts relating to claims Nos. _____

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-31</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims <u>1-31</u>	YES
	Claims _____	NO
Industrial applicability (IA)	Claims <u>1-31</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

Independent claims 1, 14, 17:

None of the documents cited in the search report discloses all the features of claims 1, 14 and 17.

The subject matter of claims 1, 14 and 17 is thus considered novel.

The closest prior art is disclosed by document FR-A-2729278, which shows the features from the preambles of claims 1 and 14 and those from the characterising part apart from "the accommodating space...". Except for "to expand [...] by moving a...", all the features of claim 17 are also known. The stated difference makes it possible to enlarge the space and thus to generate a vacuum.

The subject matter of claims 1 and 14 and the method according to claim 17 are clearly industrially applicable.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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Dependent claims 2 to 13, 15, 16, 18, 19:

Dependent claims 2 to 13, 15, 16, 18 and 19 concern advantageous configurations of the subject matter of claims 1 and 14 and of the method according to claim 17 and meet the requirements to which they are subject.

Independent claims 20, 29, 31:

None of the documents cited in the search report discloses all the features of claims 20, 29 and 31.

The subject matter of claims 20, 29 and 31 is thus considered novel.

The closest prior art is disclosed by document FR-A-2729278, which shows the features from the preambles of claims 20 and 29 and those from the characterising part apart from "during the filling procedure...". Except for "that during the filling procedure...", all the features of claim 31 are also known. The stated difference makes it possible to secure the moulded part and to extend the moulded part in the manner of a gauge pump.

The subject matter of claims 20 and 29 and the method according to claim 31 are clearly industrially applicable.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Dependent claims 21 to 28 and 30:

Dependent claims 21 to 28 and 30 concern advantageous configurations of the subject matter of claims 20 and 29 and of the method according to claim 31 and meet the requirements to which they are subject.

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Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

The claims are not drafted in the two-part form in relation to FR-A-2729278 (see the features known from that document indicated in Box V).

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 20 and 29 are unclear, since the feature
"during the filling procedure..." is a method step
and not a technical feature.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

This Authority has determined that the international application contains multiple inventions or groups of inventions which are not linked by a single general inventive concept (PCT Rule 13.1), as follows:

I: claims 1, 14, 17;

II: claims 20, 29, 31.

The reasons are as follows:

The special technical features can be considered to address the following problems:

Group I: an alternative to the solutions proposed in FR-A-2729278 and US-A-20022086079 for generating a vacuum;

Group II: reducing deformation of the moulded part.

The above problems are different from each other.

Consequently, the stated groups of claims do not meet the requirement for unity of invention (PCT Rule 13.1 and 13.2) either on the basis of the special technical features nor on the basis of the problems solved.